

Some text has been added to this quarantine for clarification purposes. All additional text will appear surrounded by a box.

## 301.92 *Phytophthora ramorum*

Federal Domestic Quarantine

### Sec. 301.92 Restrictions on the interstate movement of regulated and restricted articles.

No person may move interstate from any quarantined area any regulated or restricted article except in accordance with this subpart.

#### Sec. 301.92-1 Definitions

Please see Appendix A for definitions.

#### Sec. 301.92-2 Regulated and Restricted articles

See Appendix B for additional restricted articles.

(a) The following are regulated articles, and may be moved interstate from a quarantined area only if accompanied by a certificate issued in accordance with the regulations in this subpart:

(1) Nursery stock (except acorns and seeds), unprocessed wood and wood products, and plant products, including firewood, logs, lumber, wreaths, garlands, and greenery of arrowwood (*Viburnum x bodnantense*), big leaf maple (*Acer macrophyllum*), black oak (*Quercus kelloggii*), California bay laurel (*Umbellularia californica*), California buckeye (*Aesculus californica*), California coffeeberry (*Rhamnus californica*), California honeysuckle (*Lonicera hispidula*), coast live oak (*Quercus agrifolia*), huckleberry (*Vaccinium ovatum*) (except fruit), madrone (*Arbutus menziesii*), manzanita (*Arctostaphylos manzanita*), rhododendron (*Rhododendron* spp., including azalea), Shreve's oak (*Quercus parvula* var. *shrevei*), tanoak (*Lithocarpus densiflorus*), and Toyon (*Heteromeles arbutifolia*).

(2) Soil.

(3) Any other product or article that an inspector determines to present a risk of spreading *Phytophthora ramorum*, if an inspector notifies the person in possession of the product or article that it is subject to the restrictions in the regulations.

(b) The following are restricted articles, and may only be moved interstate from a quarantined area by the U.S. Department of Agriculture for experimental or scientific purposes, and only in accordance with the regulations in Sec. 301.92-4(a)(2) of this subpart:

(1) Bark chips, forest stock, or mulch of arrowwood (*Viburnum x bodnantense*), big leaf maple (*Acer macrophyllum*), black oak (*Quercus kelloggii*), California bay laurel (*Umbellularia californica*), California buckeye (*Aesculus californica*), California

coffeeberry (*Rhamnus californica*), California honeysuckle (*Lonicera hispidula*), coast live oak (*Quercus agrifolia*), huckleberry (*Vaccinium ovatum*), madrone (*Arbutus menziesii*), manzanita (*Arctostaphylos manzanita*), rhododendron (*Rhododendron* spp., including azalea), Shreve's oak (*Quercus parvula* var. *shrevei*), tanoak (*Lithocarpus densiflorus*), and Toyon (*Heteromeles arbutifolia*).

(2) Any other product or article that an inspector determines to present a risk of spreading *Phytophthora ramorum*, if an inspector notifies the person in possession of the product or article that it is a restricted article.

#### Sec. 301.92-3 Quarantined areas

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section each State, or each portion of a State, in which *Phytophthora ramorum* has been found by an inspector, in which the Administrator has reason to believe that *Phytophthora ramorum* is present, or that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities in which *Phytophthora ramorum* has been found. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than the entire State as a quarantined area will prevent the interstate spread of *Phytophthora ramorum*.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with paragraph (a) of this section. The Administrator will give a copy of this regulation along with a written notice for the temporary designation to the owner or person in possession of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area will be subject to this subpart. As soon as practicable, this area will be added to the list in paragraph (c) of this section or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of an area for which designation is terminated will be given notice of the termination as soon as practicable.

(c) The following are designated as quarantined areas:

#### California

Alameda County. The entire county.  
Lake County. The entire county.  
Marin County. The entire county.  
Mendocino County. The entire county.  
Monterey County. The entire county.  
Napa County. The entire county.  
San Mateo County. The entire county.  
Santa Clara County. The entire county.

Santa Cruz County. The entire county.  
Solano County. The entire county.  
Sonoma County. The entire county.

Oregon  
Portions of Curry County.

**Sec. 301.92-4 Conditions governing the interstate movement of regulated and restricted articles from quarantined areas.**

Regulated articles and restricted articles may be moved interstate from a quarantined area only if moved in accordance with this section.

(a) With a certificate or departmental permit.

(1) Any regulated articles may be moved interstate from a quarantined area if accompanied by a certificate issued and attached in accordance with Secs. 301.92-5 and 301.92-8 of this subpart, and provided that the regulated article is moved through the quarantined area without stopping except for refueling, rest stops, emergency repairs, and for traffic conditions, such as traffic lights or stop signs.

(2) Any restricted article may be moved interstate from a quarantined area only if the article is moved:

(i) By the United States Department of Agriculture for experimental or scientific purposes;

(ii) Pursuant to a departmental permit issued by the Administrator for the article;

(iii) Under conditions specified on the departmental permit and found by the Administrator to be adequate to prevent the spread of *Phytophthora ramorum*; and

(iv) With a tag or label bearing the number of the departmental permit issued for the article attached to the outside of the container holding the article, or attached to the article itself if not in a container.

(b) Without a certificate or departmental permit.

(1) The regulated or restricted article originated outside the quarantined area and the point of origin of the article is indicated on the waybill of the vehicle transporting the article; and

(2) The regulated or restricted article is moved from outside the quarantined area through the quarantined area without stopping except for refueling or for traffic conditions, such as traffic lights or stop signs, and the article is not unpacked or unloaded in the quarantined area.

**Sec. 301.92-5 Issuance and cancellation of certificates.**

(a) An inspector may issue a certificate for the interstate movement of regulated articles if an inspector determines that:

(1)(i) The regulated articles have been treated under the direction of an inspector in accordance with Sec. 301.92-10 of this subpart; or

(ii) The regulated articles are wood products such as firewood, logs, or lumber that are free of bark; or

(iii) The regulated article is soil that has not been in direct physical contact with any article infected with *P. ramorum*, and from which all duff has been removed.

(iv) The regulated articles are articles of nursery stock that:

(A) Are shipped from a nursery or premises in a quarantined area that is inspected annually in accordance with the inspection and sampling protocol described in Sec. 301.92-11(a) of this subpart, and that has been found free of *Phytophthora ramorum*; and

(B) Are part of a shipment of nursery stock that has been inspected prior to interstate movement in accordance with Sec. 301.92-11(b) of this subpart, and that has been found free of *Phytophthora ramorum*; and

(C) Have been kept separate from regulated articles not inspected between the time of the inspection and the time of interstate movement; and

(D) Have not been grown in, or moved from, other areas within a quarantined area except nurseries or premises that are annually inspected for *Phytophthora ramorum* in accordance with this section, and that have been found free of *Phytophthora ramorum*.

(2) The regulated article is to be moved in compliance with any additional emergency conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of *Phytophthora ramorum*; and

(3) The regulated article is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(b) Certificates may be issued by any person engaged in the business of growing, processing, handling, or moving regulated articles provided such person has entered into and is operating under a compliance agreement. Any such person may execute and issue a certificate for the interstate movement of regulated articles if an inspector has previously made the determination that the article is eligible for a certificate in accordance with Sec. 301.92-5(a) of this subpart.

(c) Any certificate that has been issued may be withdrawn, either orally or in writing, by an inspector if he or she determines that the holder of the certificate has not complied with all conditions in this subpart for the use of the certificate. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal will be confirmed in writing as promptly as circumstances allow. Any person whose certificate has been withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate was wrongfully withdrawn. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of

practice concerning a hearing will be adopted by the Administrator.

#### **Sec. 301.92-6 Compliance agreements and cancellation.**

(a) Any person engaged in growing, processing, handling, or moving regulated articles other than nursery stock may enter into a compliance agreement when an inspector determines that the person understands this subpart, agrees to comply with its provisions, and agrees to comply with all the provisions contained in the compliance agreement.

(b) Any compliance agreement may be canceled, either orally or in writing, by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

#### **Sec. 301.92-7 Assembly and inspection of regulated articles.**

(a) Any person (other than a person authorized to issue certificates under Sec. 301.92-5(b) of this subpart) who desires to move a regulated article interstate accompanied by a certificate must notify an inspector as far in advance of the desired interstate movement as possible, but no less than 14 days before the desired interstate movement.

(b) The regulated article must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

#### **Sec. 301.92-8 Attachment and disposition of certificates.**

(a) A certificate required for the interstate movement of a regulated article must, at all times during the interstate movement, be:

(1) Attached to the outside of the container containing the regulated article; or

(2) Attached to the regulated article itself if not in a container; or

(3) Attached to the consignee's copy of the accompanying waybill. If the certificate is attached to the consignee's copy of the waybill, the regulated article must be sufficiently described on the certificate

and on the waybill to identify the regulated article.

(b) The certificate for the interstate movement of a regulated article must be furnished by the carrier to the consignee listed on the certificate upon arrival at the location provided on the certificate.

#### **Sec. 301.92-9 Costs and charges.**

The services of the inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) will be furnished without cost. The user will be responsible for all costs and charges arising from inspection and other services provided outside normal business hours.

#### **Sec. 301.92-10 Treatments.**

The following methods may be used to treat the regulated articles listed for *Phytophthora ramorum*:

(a) Soil must be heated to a temperature of at least 180° F for 30 minutes in the presence of an inspector.

(b) Wreaths, garlands, and greenery of arrowwood (*Viburnum x bodnantense*), big leaf maple (*Acer macrophyllum*), black oak (*Quercus kelloggii*), California bay laurel (*Umbellularia californica*), California buckeye (*Aesculus californica*), California coffeeberry (*Rhamnus californica*), California honeysuckle (*Lonicera hispidula*), coast live oak (*Quercus agrifolia*), huckleberry (*Vaccinium ovatum*), madrone (*Arbutus menziesii*), manzanita (*Arctostaphylos manzanita*), rhododendron (*Rhododendron* species, including azalea), Shreve's oak (*Quercus parvula* var. *shrevei*), tanoak (*Lithocarpus densiflorus*), and Toyon (*Heteromeles arbutifolia*) must be dipped for 1 hour in water that is held at a temperature of at least 160° F.

Soil may also be moved interstate without heat treatment if it meets the requirements in Sec. 301.92-5 Issuance and Cancellation of Certificates (a) (1) (iii) or (iv).

#### **Sec. 301.92-11 Inspection and sampling protocol.**

(a) Annual nursery inspection and sampling. To meet the requirements of Sec. 301.92-5(a)(1)(iv) of this subpart, nurseries that ship regulated articles of nursery stock interstate must be inspected for symptoms of *Phytophthora ramorum* annually in accordance with this section.

(1) If the nursery contains 100 or fewer regulated articles, an inspector will inspect each regulated article. If the nursery contains more than 100 regulated articles, an inspector will inspect 100 regulated articles and at least 2 percent of the number of regulated articles contained in the nursery that exceeds 100. The regulated articles to be inspected will be randomly selected from throughout the nursery.

(2) If symptomatic plants are found upon inspection, the inspector must collect at least one sample per symptomatic plant.

(3) If fewer than 40 symptomatic plants are found in a nursery during an annual inspection, the inspector must collect samples from nonsymptomatic regulated articles of nursery stock so that the total number of sampled plants is at least 40.

(4) Samples must be labeled and sent for testing to a laboratory approved by APHIS.

(5) If any regulated articles within a nursery are found to be infected with *Phytophthora ramorum*, the nursery will be prohibited from moving regulated articles interstate until such time as an inspector can determine that the nursery is free of *Phytophthora ramorum*.

(b) Inspection and sampling of individual shipments. To meet the requirements of Sec. 301.92-5(a)(1)(iv) of this subpart, each shipment of regulated articles of nursery stock intended for interstate movement must be inspected for symptoms of *Phytophthora ramorum* in accordance with this section.

(1) If a shipment contains 100 or fewer regulated articles, an inspector will inspect each regulated article. If a shipment contains more than 100 regulated articles, an inspector will inspect 100 regulated articles and at least 2 percent of the number of regulated articles contained in the shipment that exceeds 100. The regulated articles to be inspected will be randomly selected.

(2) If symptomatic plants are found upon inspection, the inspector will collect at least one sample per symptomatic plant, and one sample per regulated article of nursery stock that is in close proximity to, or that has had physical contact with a symptomatic plant.

(3) Samples will be labeled and sent for testing to a laboratory approved by APHIS, and must be found free of *Phytophthora ramorum* prior to the interstate movement of any regulated articles contained in the shipment.

(4) If any plants intended for interstate movement are found to be infected with *Phytophthora ramorum*, the nursery from which they originate will be prohibited from moving regulated articles interstate until such time as an inspector can determine that the nursery is free of *Phytophthora ramorum*.

## Appendix A Definitions

### Sec. 301.92-1 Definitions

**Bark chips.** Bark fragments broken or shredded from a log or tree.

**Certificate.** A document in which an inspector or person operating under a compliance agreement affirms that a specified regulated article meets the requirements of Sec. 301.92-5(a) of this subject and may be moved interstate to any destination.

**Compliance agreement.** A written agreement between APHIS and a person engaged in growing, processing,

handling, or moving regulated articles, wherein the person agrees to comply with this subpart.

**Departmental permit.** A document issued by the Administrator in which he or she affirms that interstate movement of the regulated article identified on the document is for scientific or experimental purposes and that the regulated article is eligible for interstate movement in accordance with Sec. 301.92-4(a)(2) of this subpart.

**Duff.** Decaying plant matter that includes leaf litter, green waste, stem material, bark, and any other plant material that, upon visual inspection, does not appear to have completely decomposed into soil.

**Firewood.** Wood that has been cut, sawn, or chopped into a shape and size commonly used for fuel.

**Forest stock.** All flowers, trees, shrubs, vines, scions, buds, fruit pits, or other seeds of fruit and ornamental trees or shrubs that are wild-grown, backyard-grown, or naturally occurring and do not meet the definition of nursery stock, and that are not located on a nursery premises.

**Inspector.** Any employee of APHIS, the U.S. Department of Agriculture, or other person authorized by the Administrator to perform the duties required under this subpart.

**Interstate.** From any State into or through any other State.

**Log.** The bole of a tree; trimmed timber that has not been sawn further than to form cants.

**Lumber.** Logs that have been sawn into boards, planks, or structural members such as beams.

**Moved (move, movement).** Shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

**Mulch.** Bark chips, wood chips, wood shavings, or sawdust, or a mixture thereof, that could be used as a protective or decorative ground cover.

**Nursery stock.** All greenhouse or field-grown florist's stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots.

**Quarantined area.** Any State, or any portion of a State, listed in Sec. 301.92-3(c) of this subpart or otherwise designated as a quarantined area in accordance with Sec. 301.92-3(b) of this subpart.

**Regulated article.** Any article listed in Sec. 301.92-2(a) of this subpart.

**Restricted article.** Any article listed in Sec. 301.92-2(b) of this subpart.

**Soil.** Any non-liquid combination of organic and/or inorganic material in which plants can grow.

**State.** The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

## Appendix B - Additional Restricted Articles

(1). Plants and plant parts of western star flower (*Trientalis latifolia*), andromeda (*Pieris formosa*), and Mariesii-doublefile Viburnum (*Viburnum plicatum* var. *tomentosum*);

### (2) Plants of:

#### ***Calluna vulgaris* – Heath (Ericaceae)**

*Camellia* spp. (camelia, includes all species, hybrids and cultivars)

*Clintonia andrewsiana* (Andrew's clintonia bead lily)

#### ***Drimys winteri* – Winter's bark (Winteraceae)**

*Dryopteris arguta* (California wood fern)

#### ***Laurus nobilis* – Bay Laurel (Lauraceae)**

#### ***Salix caprea* – Kilmarnock willow (Salicaceae)**

*Smilacina racemosa* (false Solomon's seal)

*Taxus brevifolia* (Pacific yew)

(3). Plants and stems of laurustinus (*Viburnum tinus*);

(4). Leaves of camellia (*Camellia japonica*) and Sasanqua camellia (*Camellia sasanqua*);

(5). Small branches (less than one inch in diameter), and leaves of canyon live oak (*Quercus chrysolepsis*);

(6). Basal trunk/burl sprouts, small branches (less than one inch in diameter), and leaves (needles) of coast redwood (*Sequoia sempervirens*) and Douglas fir (*Pseudotsuga menziesii*).

(7). Leaves and stems of Brouwer's beauty andromeda (*Pieris floribunda* x *japonica*), forest flame andromeda (*Pieris formosa* x *japonica*), variegated and flaming silver andromeda (*Pieris japonica*), and witch hazel (*Hamamelis virginiana*).

### Nursery stock

Nursery Stock of these are regulated in the same manner as other host nursery stock in the established regulations. (Includes but is not limited to 319.92-2(a)(1) Regulated and restricted articles; 310.92-4 Conditions governing the interstate movement of regulated and restricted articles from quarantined areas; 301.92-5(a)(iv)(A) Issuance and cancellation of certificates; 301.92-11(a) Inspection and sampling protocol).

### Cut Christmas trees (New)

Cut Christmas trees of these grown in plantations under a State Department of Agriculture inspection program may be shipped interstate under the same conditions already established in the regulations for host nursery stock. (Includes but is not limited to 319.92-2(a)(1) Regulated and restricted articles; 310.92-4 Conditions governing the interstate movement of regulated and restricted articles from quarantined areas; 301.92-5(a)(iv)(A) Issuance and cancellation of certificates; 301.92-11(a) Inspection and sampling protocol).

### Forest stock

Sprouts associated with basal trunks or burls

Small branches (less than one inch in diameter)

Leaves (needles)

Of these new hosts are restricted articles as are other host forest stock in the established regulations.

(Includes but is not limited to 319.92-2(b)(1) Regulated and restricted articles; 301-92-4 Conditions governing the interstate movement of regulated and restricted articles from quarantined areas).

### Greenery, garlands, and wreaths

Sprouts associated with basal trunks or burls

Small branches (less than one inch in diameter)

Leaves (needles)

Of these new hosts are restricted articles as are other host greenery, garlands, and wreaths in the established regulations, unless treated in accordance with the established regulations.

(Includes but is not limited to 301.92-5(a)(iv)(A) Issuance and cancellation of certificates; 301.92-10(b) Treatments).

### Logs, lumber and other wood and wood products

No special conditions unless regulated elsewhere in the regulations.

### Wood chips and bark mulch

No special conditions unless regulated elsewhere in the regulations.

### Seeds, nuts, and fruits

No special conditions unless regulated elsewhere in the regulations.

These actions are authorized by the Plant Protection Act of June 20, 2000, Section 412(a), which authorizes the Secretary to prohibit or restrict or regulate the movement in interstate commerce of any plant, plant part, or article if the Secretary determines these measures are necessary to prevent the dissemination of a plant pest within the United States. These actions are also authorized by 7 CFR 301.92-2(b)(2).

## Appendix C – Additional Quarantined Areas

California:

Contra Costa County. The entire county.  
Humboldt County. The entire county.